

FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38, MG Marg Civil Lines, Old Red Building, Allahabad-211001
Regional Branch, Allahabad

Dated: 15/09/2017

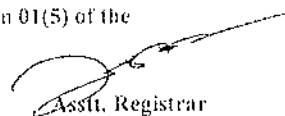
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71045/2017-SM|BRI dated 13/09/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.


Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/70532/2016	Commissioner CUSTOMS Central EXCISE and SERVICE TAX- Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307

Name and Address of Respondent

2		Freescale Semiconductor India Pvt Ltd 2,3 & 18 Sector-16 A,, NOIDA ,U.P.
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Copy To

3 Advocate(s) / Consultant(s):

**V. Lakshmi Kumaran, ALD
3/1A/3 OPP AUTO SALES, Above the
Office Of Blue Dart/DHL Courier,
COLVIN ROAD, LOHIA MARG
ALLAHABAD-211001**

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad -- 38

12 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com), FF-19, 1st Floor, Cross River Mall, CBD Ground, Near Karkardooma Court, Delhi-110032

14 C.D.R. 15 Office Copy 16 Guard File


Asstt. Registrar

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
Old Red Building, 38 M.G. Marg, Civil Lines,
Allahabad – 211 001**

COURT NO. II

DATE OF HEARING : 11/09/2017.
DATE OF DECISION : 11/09/2017.

Service Tax Appeal No. 70532 of 2016 (SM)

[Arising out of the Order-in-Appeal No. NOI/SVTAX/000/APPL-I/476/2015-16 Dated 29/01/2016 passed by The Commissioner (Appeals), Central Excise (Appeals – I), Meerut.]

CCE, Noida

Appellant

Versus

M/s Freescale Semiconductor India Pvt. Ltd.

Respondent

Appearance

Shri Mohd. Altaf, Authorized Representative (DR) – for the Appellant.

Shri Harishikesh, Advocate – for the Respondent.

CORAM: Hon'ble Shri Ashok Jindal, Member (Judicial)

Final Order No. 71045/2017 Dated : 13/09/2017



Per. Ashok Jindal :-

Revenue is in appeal against the impugned order wherein the learned Commissioner (Appeals) allowed the refund claim filed by the respondent under Rule 5 of the Cenvat Credit Rules, 2004 readwith Notification No. 27/2012-CE (NT) dated 18/06/2012.

Ashok Jindal

2. The facts of the case are that the respondent filed refund claim under Rule 5 of the Cenvat Credit Rules, 2004 readwith Notification No. 27/2012-CE (NT) dated 18/06/2012 the refund claim sought to be denied by issuance of show cause notice for default in condition of the notification condition No. 2 (h) and 2 (g) of the Notification No. 27/2012-CE (NT) ibid to say that respondent has not debited the amount equal to the refund claim at the Cenvat credit account at the time of availing the claim, the Adjudicating Authority after examining the documents found that the respondent has debited the amount equal to the refund claim in their Cenvat credit account allowed the refund claim but learned Commissioner (Appeals) on appeal filed by the party after verifying the record that the condition No. 2 (h) and 2 (g) of the notification has been complied with allowed the refund claim. Aggrieved from the said order, Revenue is in appeal.

3. The sole ground for filing the appeal by the Revenue is that at the time of filing the refund claim, the respondent has not debited the amount in their Cenvat credit account, therefore, assessee failed to comply with the condition No. 2 (h) and 2 (g) of the notification, therefore, refund claim has been rejected.

4. Heard the parties.

5. On perusal of the record, I find that authorities below has examined the records and found that before sanctioning the refund claim, the amount equal to refund claim has been debited

Ashwani

in their Cenvat credit account in terms of condition No. 2 (h) and 2 (g) of the Notification No. 27/2012-CE (NT).

6. In that circumstances, I do not find any infirmity with the impugned order. The same is upheld. The appeal filed by the Revenue is dismissed.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

PK

Member(Judicial)

प्रमाणित प्रतः/Certified True Copy
 28/09/17
 सहायक मंडीदार/Asstt. Registrar
 सीएचएलए, उत्तराखण्ड एवं सेवा कर
 अपील अधिकरण(C.E.S.T.A.T.)
 38, एम.जी.मार्ग, इलाहाबाद-211001
 38, M. G. MARG, ALLAHABAD-211001